

1 **Education Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(Amendment)**

5 **707 KAR 1:300. Child find, evaluation, and reevaluation.**

6 RELATES TO: KRS 157.200, 157.220, 157.224, 157.226, 157.230, 157.250, 157.260,
7 157.270, 157.280, 157.285, 157.290, 157.360, 158.030, 158.100, 158.150, 160.290, 20
8 U.S.C. § 1221(e), 20 U.S.C. § 1400-1419, 34 CFR 300.1-300.662.

9 STATUTORY AUTHORITY: KRS 156.070(1), 156.160, 157.220, 157.224, 157.260,
10 167.015.

11 NECESSITY, CONFORMITY, AND FUNCTION: KRS 157.200 to 157.290 establish
12 the statutory framework for special education programs in local school districts. KRS
13 157.220 mandates that the Kentucky Board of Education adopt rules and administrative
14 regulations to generally carry out these programs. KRS 156.035 sets forth the authority
15 of the Kentucky Board of Education to implement any act of Congress appropriating
16 funds to the state and to provide for the proper apportionment and disbursement of these
17 funds in accordance with state and federal laws. 20 U.S.C. 1400 et.seq. and 34 C.F.R.
18 Part 300 require that policies and procedures be adopted to assure the apportionment and
19 disbursement of federal funds for exceptional children programs
20 in accordance with applicable laws. This administrative regulation establishes
21 requirements for conducting child find activities and procedures for evaluation and

reevaluation of children with disabilities.

Section 1. Child find requirements. A LEA shall have in effect policies and procedures that plan and implement a child find system to locate, identify, and evaluate each child:

(1) whose age is three (3) to twenty one (21);

(2) who resides in a home, facility, or residence within the LEA's geographical boundaries, including children with disabilities who attend private schools located within the LEA boundaries, ~~[attending private schools]~~ children who are highly mobile such as migrant and homeless children as described in 704 KAR 7:090, children who are wards of the state, and students who are advancing grade to grade resulting from passing a grade but who still may have a disability;

(3) who is either in or out of school;

(4) who may need special education and related services; ~~[and]~~

(5) for preschool age children with disabilities, a LEA must ensure a smooth and effective transition from the early intervention program to preschool; and

(6) each LEA shall participate in transition planning conferences for children with disabilities served by early intervention programs.

Section 2. Coordinated early intervening services. A LEA may conduct early intervening services for students from kindergarten through twelfth (12th) grade (with particular emphasis on students in kindergarten through grade three) who need additional academic and behavioral support in order to be successful in the regular education environment prior to referral for special education. In order to provide these coordinated early intervening services, a LEA shall not spend more than 15 % of the money received under IDEA Part B.

Section 3. ~~[2.]~~ Referral system. (1) A LEA shall have a referral system that explains how referrals from district or non-district sources will be accepted and acted upon in a timely manner.

(2) The referral system shall be conducted in such a manner as to prevent inappropriate over identification or disproportionate representation by race and ethnicity of children in special education by ensuring that the child has been provided appropriate instruction and interventions.

(3) The LEA shall ensure that:

(a) prior to, or as a part of the referral process, the child was provided appropriate quality, research-based instruction/intervention in regular education settings, with the instruction provided by qualified personnel; and

(b) data-based documentation or repeated assessments of achievement or measures of behavior at reasonable intervals, reflecting systematic assessment of student progress during instruction the results of which were provided to the child's parents.

(4) If the child has not made adequate progress after an appropriate period of time during which the conditions in paragraph (3) above have been implemented, a referral for an evaluation to determine if the child needs special education and related services shall be made.

Section 4. ~~[3.]~~ Evaluation and reevaluation procedures. (1) A LEA shall ensure that a full and individual evaluation is conducted for each child considered for specially designed instruction and related services prior to the provision of the services. The results of the evaluation shall be used by the ARC in meeting the requirements on developing an IEP as provided in 707 KAR 1:320.

1 (2) Tests and other evaluation materials used to assess a child shall be:

2 (a) selected and administered so as not to be discriminatory on a racial or cultural basis;

3 and

4 (b) provided and administered in the child's native language or other mode of

5 communication most likely to yield accurate information on what the child knows and

6 can do academically, developmentally, and functionally, unless it is clearly not feasible to

7 do so.

8 (3) Screenings conducted by a teacher or a specialist to determine appropriate

9 instructional strategies for curriculum implementation shall not be considered to be an

10 evaluation for eligibility for specially designed instruction and related services and shall

11 not need parental consent.

12 (4) [(3)] Materials and procedures used to assess a child with limited English proficiency

13 shall be selected and administered to ensure that they measure the extent to which the

14 child has a disability and needs specially designed instruction and related services, rather

15 than measuring the child's English language skills.

16 (5) [(4)] A variety of assessment tools and strategies shall be used to gather relevant

17 functional ~~[and]~~ developmental, and academic information about the child, including

18 information provided by the parent, and information related to enabling the child to be

19 involved in and progress in the general curriculum described in the Kentucky Program of

20 Studies, 704 KAR 3:303.

21 (6) [(5)] A standardized test given to a child shall:

22 (a) have been validated for the specific purpose for which they are used;

23 (b) be administered by trained and knowledgeable personnel in accordance with any

instructions provided by the producer of the tests; and

(c) be conducted under standard conditions unless a description of the extent to which it varied from standard conditions is documented in the evaluation report.

(7) ~~[(6)]~~ Tests and other evaluation materials shall include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(8) ~~[(7)]~~ Tests shall be selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(9) ~~[(8)]~~ A single procedure shall not be used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.

(10) ~~[(9)]~~ The child shall be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(11) ~~[(10)]~~ The evaluation shall be sufficiently comprehensive to identify all the child's special education and related services needs, whether commonly linked to the disability category in which the child has been classified.

(12) ~~[(11)]~~ Assessments tools used shall be technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(13) Assessments and evaluation of children with disabilities that transfer from one school district to another in the same academic year shall be coordinated with the previous and current schools as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(14) ~~[(12)]~~ Assessment tools and strategies shall be used that provide relevant information that directly assist and are used in the determination of the educational needs of the child. As part of an initial evaluation, if appropriate, or as part of any reevaluation, the ARC and other qualified professionals, if necessary, shall review existing evaluation data on the child including:

(a) evaluations and information provided by the parents;

(b) current classroom-based, local or state assessments and classroom-based observations; and

(c) observations by teachers and related services providers.

(15) ~~[(13)]~~ On the basis of the review, and input from the parents, the ARC shall identify what additional data, if any, are needed to determine:

(a) whether the child has a particular category of disability and the educational needs of the child, or in the case of a reevaluation of the child, whether the child continues to have a disability, and the educational needs;

(b) the present levels of academic achievement and related developmental needs

~~[performance and educational needs]~~ of the child;

(c) whether the child needs special education and related services, or in the case of a reevaluation, whether the child continues to need specially designed instruction and related services; and

(d) whether any additions or modification to the special education and related services are needed to enable the child to meet the measurable goals set out in the IEP and to participate, as appropriate, in the general curriculum.

(16) ~~[(14)]~~ The LEA shall administer tests and other evaluation materials as needed to produce the data identified by the ARC. If, for purposes of a reevaluation, the ARC determines that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the LEA shall notify the child's parents:

(a) of that determination and reasons for it; and

(b) of the right of the parents to request an reevaluation ~~[assessment]~~ to determine whether, for purposes of services, the child continues to be a child with a disability.

(17) ~~[(15)]~~ The LEA shall not be required to conduct a reevaluation, if after review of the existing data, the ARC determines: ~~[no reevaluation is necessary to determine whether the child continues to be a child with a disability, unless the parent requests the reevaluation.]~~

(a) a reevaluation is not necessary to determine whether the child continues to be eligible for services: and

(b) a reevaluation is not warranted to determine the education or related services needs, including improved academic achievement and functional performance unless the parents or teacher request a reevaluation.

(18) ~~[(16)]~~ A LEA shall ensure a reevaluation, unless the parent and the LEA agree that a reevaluation is unnecessary, which may consist of the review described in subsection (14), ~~[(12)]~~, is conducted at least every three (3) years to determine:

- 1 (a) the present levels of performance and educational needs of the child;
- 2 (b) whether the child continues to need special education and related services; and
- 3 (c) whether any additions or modifications to the special education and related
- 4 services are needed to enable the child to meet the measurable annual goals set out in the
- 5 IEP and to participate, as appropriate, in the general curriculum;

6 (19) A reevaluation shall not be conducted more than once a year unless the parent and
7 the LEA agree otherwise.

8 (20) [(17)] A LEA shall evaluate a child with a disability in accordance with this
9 administrative regulation before determining that the child is no longer a child with a
10 disability. The LEA shall not be required to conduct an evaluation as described in this
11 section before the termination of a child's eligibility due to graduation from secondary
12 school with a regular diploma or due to exceeding the age eligibility for a free,
13 appropriate public education.

14 (21) For students who graduate or age out of the program, the LEA shall provide the
15 child with a summary of the child's academic achievement and functional performance
16 including recommendations on how to assist the child in meeting the child's
17 postsecondary goals.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

(Date)

Kevin M. Noland
Interim Commissioner of Education

(Date)

Keith Travis, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on May 31, at 10:00 a.m. in the State Board Room, 1st Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2007. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Kevin M. Noland, Deputy Commissioner and General Counsel, Bureau of Operations and Support Services, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky, 40601, phone 502/564-4474, fax 502/564-9321.